



# Oregon

Kate Brown, Governor

## Public Utility Commission

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February 21, 2019



Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Universal Service Administrative Company  
Vice President, High Cost Program  
700 12th Street, NW, Suite 900  
Washington, DC 20005

RE: ETC Designation of Douglas Services, Inc., dba Douglas Fast Net in Oregon  
WC Docket No. 10-90, AU Docket No. 17-182

This letter is to inform you that on February 14, 2019, the Public Utility Commission of Oregon granted Douglas Services, Inc. dba Douglas Fast Net designation as a federal Eligible Telecommunications Carrier (ETC) for purposes of receiving CAF II high-cost (Auction 903) and Lifeline federal universal service support funds in certain census blocks as specified in the order. Following is a copy of the Commission's Order No. 19-040 which addresses the matter in detail.

If you have any questions regarding this designation, please call me at (503) 378-6730 or send an email to [Kay.marinos@state.or.us](mailto:Kay.marinos@state.or.us).

Thank you.

Kay Marinos  
Program Manager  
Telecom and Water Division

Attachment

cc: Todd Way, DFN  
Jon Cray, OPUC

ORDER NO. 19-040

ENTERED Feb 15 2019

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1969

In the Matter of

DOUGLAS SERVICES, INC.,  
dba DOUGLAS FASTNET,

Application for Designation as an Eligible  
Telecommunications Carrier (ETC) and  
Eligible Telecommunications Provider (ETP)  
to Receive CAF II Funds.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on February 14, 2019, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:

*Nolan Moser*



**Nolan Moser**

Chief Administrative Law Judge

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

ITEM NO. CA2

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT**

**PUBLIC MEETING DATE: February 14, 2019**

**REGULAR** \_\_\_\_\_ **CONSENT**   X   **EFFECTIVE DATE**   February 14, 2019  

**DATE:** February 4, 2019

**TO:** Public Utility Commission

**FROM:** Kay Marinos *KM*

**THROUGH:** Jason Eisdorfer *JE* and Bryan Conway *BAC*

**SUBJECT:** DOUGLAS SERVICES, INC.: (Docket No. UM 1969) Application for ETC and ETP Designations to Receive CAF II Funds.

**STAFF RECOMMENDATION:**

Staff recommends the Commission grant the request of Douglas Services, Inc. dba Douglas Fast Net (DFN) for designation as a federal Eligible Telecommunications Carrier (ETC) for the purposes of receiving Connect America Fund Phase II (CAF II) and Lifeline federal universal service funds, and for designation as an Eligible Telecommunications Provider (ETP) to participate in the Oregon Telephone Assistance Program (OTAP), in the census blocks listed in Attachment A.

The designations are prerequisites to DFN's receipt of federal universal service funds associated with its winning bids in the CAF II Auction 903. These funds will enable DFN to deliver gigabit-speed internet access service to 533 locations in certain census blocks in rural areas of Douglas, Lane and Coos counties. ETC and ETP designations will also facilitate the expansion of voice and Lifeline services in those areas.

To ensure that DFN meets federal deadlines for this funding, Staff also recommends that a designation order be issued as early as possible, but no later than February 24, 2019.

**DISCUSSION:**

Issue

Whether the Commission should designate DFN as an ETC and ETP in the census blocks listed in Attachment A.

### Applicable Law

Section 214(e)(2) of the Federal Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act), delegates authority to state commissions to designate common carriers that are eligible to receive federal universal service support, i.e., ETCs. State commissions may confer federal ETC status on ILECs or competitive common carriers that meet the conditions set out in Section 214(e)(1) of the Act. In general, those conditions require that the ETC offer and advertise, throughout its designated service area, the services that are supported by federal universal service support mechanisms. The carrier must provide the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's service.

Each state may adopt specific requirements for ETC designation that are consistent with requirements of the Act. The Commission updated its own set of requirements for federal ETC designation in Docket UM 1648, Order No. 15-382 entered December 1, 2015 (ETC Order). These are listed in Appendix A to the ETC Order.

Federal Communications Commission (FCC) rules require that an ETC offer Lifeline services to qualifying low-income customers within its designated service area.<sup>1</sup> In order to offer Lifeline services in Oregon, a carrier must be designated as an ETP to participate in the OTAP, which is the state-mandated counterpart of the FCC Lifeline program. OTAP requirements are based on Residential Service Protection law found in ORS 759.687 and Chapter 290, Sections 2-6 and 16, Oregon Laws 1987 as amended. Commission rules governing OTAP are found in Chapter 860, Division 033 of the Oregon Administrative Rules.

### Analysis

#### *The Applicant and Previous Designations*

DFN is a wholly owned subsidiary of Douglas Electric Cooperative. The company was formed in 2001 and is a competitive provider of broadband and voice services to residential, business and institutional customers in Douglas and Lane Counties. The company holds a certificate of authority to provide telecommunications service as a competitive provider.<sup>2</sup> DFN currently provides broadband services to more than 6,000 customers and voice services to more than 2,000 customers.

The Commission previously granted ETC and ETP designations to DFN in several areas of southern Oregon. In May of 2015, the Commission granted designations to enable DFN to receive \$2.375 million of federal high-cost support funding through the FCC's Rural Broadband Experiment (RBE). That funding was granted to support DFN's delivery of high-speed internet access and voice services to 2,495 locations in selected

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<sup>1</sup> FCC rules also require ETCs to offer Link Up if designated on Tribal Lands. DFN's proposed designated service area does not include any Tribal Lands.

<sup>2</sup> Order No. 09-322 in Docket No. CP 1457.

census blocks in the remote foothills of the Cascade and Coastal mountain ranges of southwestern Oregon.<sup>3</sup> In February of 2018, the Commission granted ETC status to DFN to enable it to receive support from the Oregon Universal Service Fund (OUSF) in the Camas Valley, Drain, Glide, Yoncalla, Sutherlin and Winston wire center areas.<sup>4</sup> As a result of that designation, DFN has received approximately \$120,000 from the OUSF in the last twelve months to maintain, upgrade and expand its current fiber network in those named wire center areas. Larger support amounts are forecasted for 2019. At the same time, DFN was granted ETC and ETP status to offer federal and state Lifeline services in those areas. Most recently, in October of 2018, the Commission granted DFN's request to extend its designated service area for Lifeline and OTAP services to include all of the Roseburg wire center area.<sup>5</sup>

#### *The Current Application*

On September 21, 2018, DFN filed the application at issue here. The company requests designation as a federal ETC and ETP to enable it to receive almost \$3.5 million of federal universal service CAF II support for which it had submitted winning bids in the FCC's Auction 903. This support, which is to be paid out over ten years, is intended to help DFN bring gigabit-speed service to 533 locations in the specific census blocks listed in Attachment A. These census blocks are located in rural areas of Douglas, Lane and Coos counties. As part of the ETC designation for high-cost funds, DFN is obligated to offer Lifeline services in the same areas. ETP designation, which is also required, will enable DFN to participate in the OTAP program and offer supplemental support to qualifying low-income consumers.

DFN participated in the CAF II auction as a member of the Rural Electric Cooperative Consortium, which was announced as a provisional winning bidder in several states, including Oregon, in late August of last year. The Consortium subsequently assigned the winning bid in Oregon to DFN; therefore, DFN is the entity that must fulfill the obligations associated with the auction funding in Oregon. The notice announcing the winners also contained post-auction procedures and filing requirements for winning bidders. DFN has filed all post-auction information required by the FCC to date. In order to complete all requirements and begin receiving support, however, DFN must file documentation of its ETC designation from the Oregon Commission prior to 6:00 pm ET on February 25, 2019.<sup>6</sup>

The new ETC designation that DFN now seeks is largely independent of its prior designations. The geographic areas to be funded are different, as are the FCC requirements for required service offerings and associated obligations. There are some slight overlaps geographically, however, in that eleven of the census blocks in this request are located in four wire centers that were previously designated for Lifeline-only

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<sup>3</sup> Order No. 15-159 in Docket No. UM 1721, (May 19, 2015).

<sup>4</sup> Order No. 18-040 in Docket No. UM 1896, (February 2, 2018).

<sup>5</sup> Order No. 18-417 in Docket No. UM 1896, (October 23, 2018).

<sup>6</sup> FCC Public Notice DA 18-887, released August 28, 2018.

(and not high-cost) funding. Those census blocks will be reclassified to be included in the designated service area for the CAF II support. They are identified by an asterisk in Attachment A of this memo.

The CAF II auction was designed as a reverse auction, with funding going to the lowest bidders. The FCC intention was to balance the realities of a finite budget and the high cost of providing broadband in more remote rural areas. To facilitate technological neutrality among various types of network providers, the FCC established four performance tiers (speeds and usage allowances) and two latency tiers (low and high), which were weighted to reflect preferences toward higher speeds and usage allowances, and lower latency. Bidders were required to choose their performance tiers and latency tiers prior to bidding. DFN chose the Gigabit performance tier (speed at least 1 Gbps downstream and 500 Mbps upstream, and a usage allowance of 2 terabytes per month), and the low latency tier (100 milliseconds or less). As a result, DFN is obligated to meet these requirements, in addition to other specific requirements (discussed below), in the areas where it will receive CAF II funding.

#### *Staff's Review and Analysis*

Staff reviewed the application and issued a data request for additional information that DFN had filed with the FCC before and following the CAF II auction. This included the FCC's "short form application" submitted before the auction and the "long form application" submitted by winning bidders after the auction.

DFN's application, in conjunction with information submitted to the FCC, demonstrates that it satisfies the Commission's ETC requirements as discussed below. The following numbers correspond to the application requirements in Appendix A of the ETC Order.

1. Applicant information and common carrier status: DFN is a common carrier certificated to offer local exchange and interexchange services in Oregon.<sup>7</sup> DFN offers services across Douglas County and portions of Lane and Coos counties, providing broadband services to more than 6,000 customers and voice services to more than 2,000 customers. The company has been in business since 2001. It submitted all information required by the FCC to demonstrate financial health.
2. Type of federal support for which designation is requested: DFN requests designation to receive federal high-cost support from the CAF II Auction 903, as well as low-income support for Lifeline services.
3. Commitment and ability to provide all supported services: DFN commits to provide the supported services within the proposed designated service area. These include voices services as defined in 47 CFR §54.101(a), with a stand-alone voice service offering, and a broadband internet access service offering that meets the applicable FCC requirements. DFN's current service offerings are posted on its website.

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<sup>7</sup> DFN was originally certificated in Order No. 01-902 and later in Order No. 09-322.



4. Identification and definition of proposed designated service and commitment to serve: DFN identifies its proposed designated service area in terms of census blocks consistent with its auction award in Exhibit A to its application. The application also includes a map of the proposed designated service area which is included as Attachment B of this memo. No Tribal Lands are included. DFN commits to provide the supported services throughout the designated service area, but obviously cannot provide the required services at the outset of its designation. The FCC requires CAF II auction winners to build out to 40 percent of the supported locations by the end of the third year of support and an additional 20 percent of the locations each subsequent year. DFN must reach 100 percent of the locations by the end of the sixth year of support.<sup>8</sup>
5. Types of facilities used to provide supported services: DFN uses state-of-the-art fiber networks to serve current customers and plans to extend those networks to the proposed designated service area. DFN plans to provide customers with Fiber-to-the-Home or Fiber-to-the Node service based on technical feasibility and proximity to DFN's fiber network. DFN already has interconnection agreements in place with the CenturyLink and Frontier incumbent local exchange carriers.
6. Commitment to use support in accordance with rules: DFN's application includes an affidavit certifying that it will use the support funds only for the intended purposes. It also includes a commitment to comply with the service requirements for the type of support it receives. Additionally, the ETC Order requires an applicant for high-cost support to submit a five-year network plan demonstrating how the applicant will use the support funds. For CAF II auction winners, however, the FCC waived this requirement on the basis that such plans are not needed given new detailed buildout reporting requirements and certification of compliance obligations.<sup>9</sup> Staff agrees with the FCC's reasoning in this regard. Also, the required buildout targets as described in requirement #4 above, in conjunction with network descriptions included in the company's application, meet the intended purpose of a plan.
7. Commitment to advertise high-cost supported services throughout the service area: DFN commits to advertise the availability of the supported services and the relevant charges using media of general distribution, including the internet. It is in the company's interest to advertise in order to gain customers and associated revenues.
8. Commitment to offer and advertise Lifeline and OTAP services: DFN commits to offer and advertise Lifeline and OTAP services for qualifying low-income customers. DFN already offers Lifeline and OTAP services in its current ETC and ETP designated areas and thus has demonstrated experience. DFN will continue to offer Lifeline and OTAP discounts on its stand-alone voice plan as well as on bundles

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<sup>8</sup> FCC Order 16-64, released May 26, 2016, para. 40.

<sup>9</sup> FCC DA 18-714, released July 10, 2018, pp. 4-5.

containing voice services. DFN's application includes a request for designation as an ETP in the proposed designated service area and a commitment to follow all Lifeline and OTAP requirements.

9. Ability to remain functional in emergencies: DFN certifies that as a facilities-based provider, it has the ability to remain functional in emergency situations through access to back-up power, the ability to re-reroute traffic around damaged facilities, and capabilities for handling traffic spikes. E911 is deployed and fully functional. DFN currently complies with Oregon's 911 tax requirements and intends to continue to do so.
10. Commitment to service quality and consumer protection standards: DFN commits to abide by service quality rules applicable to certificated competitive providers, as well as consumer protection and privacy rules. The company also commits to work with the Commission to resolve customer complaints and designates Todd Way as DFN's contact person for complaints.
11. Designation on Tribal Lands: These requirements do not apply as DFN is not seeking designation on Tribal Lands.
12. Public interest showing: Designation of DFN as an ETC to receive federal universal service funds is in the public interest. DFN's designation will bring gigabit-speed internet access service to customers in the designated service area, as well as competitive voice services and Lifeline discounts for qualifying low-income customers.
13. Commitment to provide reports as required: Annual reporting requirements for designated ETCs are set forth in Appendix A of the ETC Order. DFN agrees to abide by all ETC annual reporting requirements established by the Commission. If it receives funding, DFN will also be subject to FCC reporting requirements. The company may lose funding if it does not submit required information or cannot demonstrate that it is meeting buildout requirements according to specific timelines.

As to ETP requirements, DFN requests ETP designation to participate in the OTAP and offer Lifeline services. In response to ETC requirement #8 above, commits to abide by all OTAP and RSPF rules and procedures.

No party filed to intervene in the docket.

### Conclusion

Staff finds DFN's application demonstrates the carrier has satisfied eligibility requirements for ETC and ETP designation for purposes of receiving CAF II, Lifeline and OTAP support. Staff finds granting DFN's application without further review



Douglas Services, Inc.  
February 4, 2019  
Page 7

satisfies the public interest. If the Commission issues an ETC designation order as soon as possible, but no later than February 24, 2019, it will enable DFN to meet the FCC's deadline to receive funding.

**PROPOSED COMMISSION MOTION:**

Approve the request of Douglas Services, Inc. dba Douglas Fast Net to be designated as a federal ETC for purposes of receiving CAF II high-cost and Lifeline federal universal service support funds, and as an ETP to participate in the OTAP, in the census block groups listed in Attachment A.

CA2 UM 1969 DFN ETC

**ATTACHMENT A**  
**Douglas Services Inc. dba Douglas Fast Net**  
**Proposed Designated Service Area for CAF II Funding - List of Census Blocks**

<u>Douglas County</u>	<u>Douglas County</u>	<u>Douglas County</u>	<u>Coos County</u>
410192100002333	410191800002250	410191800001033	410110007007017
410192100002327	410191800002249	410191800001032	410110001004027
410192100002323	410191800002224	410191800001018	
410192100002291	410191800002214	410191800001010	
410192100002271	410191800002210	410191200001001*	<u>Lane County</u>
410192100002252	410191800002208	410191100003067	410390014001211
410192100002238	410191800002207	410191100003066	410390014001184
410192100002237	410191800002206	410190900003070*	410390014001167
410192100002148	410191800002201	410190900003010*	410390014001166
410192100002139	410191800002199	410190900003003*	410390008002089
410192100002138	410191800002195	410190600002044*	410390008002087
410192100002135	410191800002169	410190500011053*	410390008002079
410192100002115	410191800002166	410190400003131*	410390008002077
410192100002045	410191800002162	410190400001217*	410390008002070
410192100002010	410191800002158	410190400001111*	410390008002066
410192000003136	410191800002157	410190400001108*	410390008002064
410192000003133	410191800002156	410190200002146	410390008002058
410192000001122	410191800002152	410190200002142	410390008002051
410192000001098	410191800002148	410190200002134	410390008002048
410192000001088	410191800002121	410190200002130	410390008002047
410192000001078	410191800002104	410190200002106	410390008002041
410192000001024	410191800002098	410190200002091	410390008002035
410192000001016	410191800002086	410190200002083	410390008002032
410192000001009	410191800002083*	410190200002074	410390008002031
410191900002071	410191800001137	410190200002070	
410191900002063	410191800001118	410190200002069	
410191900002040	410191800001113	410190200002067	
410191900002039	410191800001108	410190200002066	
410191900002038	410191800001086		
410191900002035	410191800001085		
410191900002034	410191800001078		
410191900002029	410191800001068		
410191900002018	410191800001063		
410191900002008	410191800001056		
410191900002006	410191800001051		
410191900002003	410191800001048		
410191800002298	410191800001043		
410191800002297	410191800001038		
410191800002253	410191800001034		

\*Previously included in designated service areas in Order Nos. 18-040 and 18-417. These orders granted designation for the purpose of receiving Lifeline, not federal high-cost, support.

ATTACHMENT B  
DFN Proposed Designated Service Area for CAF II Funding  
Census Blocks (in Blue)

